

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

RICHARD J. LAWS,
Petitioner

v.

STATE OF VERMONT,
Respondent

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File No. 1:10-cv-306-jgm

ORDER

The Magistrate Judge's Report and Recommendation was filed May 16, 2011. (Doc. 15.) The Court notes the Factual and Procedural Background contains a typographical error, however, it does not affect the analysis of the case.¹ After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

The petition for writ of habeas corpus (Doc. 1) is DENIED as untimely and because Petitioner's claims are not cognizable under 28 U.S.C. § 2254. Respondent's motions to dismiss (Docs. 6 and 11) are GRANTED and this case is DISMISSED.

Pursuant to Fed. R. App. P. 22(b), the Court DENIES petitioner a certificate of appealability ("COA") because the petitioner failed to make a substantial showing of a denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). In addition, because the petition has been dismissed on procedural grounds, the petitioner cannot be issued a COA due to his failure to demonstrate that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that

¹ The Petitioner received an aggregate sentence of twenty to thirty-five years in prison, not twenty-five to thirty years in prison. See Report and Recommendation at 2.

jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” See Slack v. McDaniel, 529 U.S. 473, 120 S. Ct. 1595, 1604, 146 L. Ed. 2d 542 (2000).

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 29th day of June, 2011.

/s/ J. Garvan Murtha
Honorable J. Garvan Murtha
District Judge